Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Application by Verizon New Jersey Inc.,	)	
Bell Atlantic Communications, Inc.	)	
(d/b/a Verizon Long Distance),	)	CC Docket No. 02-67
Verizon Global Networks Inc., and	)	
Verizon Select Services Inc., for	)	

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Authorization to Provide In-Region,	)	
InterLATA Services in New Jersey	)	

REPLY COMMENTS OF METROPOLITAN TELECOMMUNICATIONS

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CONFIDENTIAL – NOT FOR PUBLIC INSPECTION

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REPLY COMMENTS OF METROPOLITAN TELECOMMUNICATIONS

Metropolitan Telecommunications ("MetTel"), through undersigned counsel and pursuant to the briefing schedule[1] set by the Federal Communications Commission ("FCC"), in the above-captioned proceeding, hereby submits its Reply Brief to Verizon New Jersey Inc.'s ("Verizon NJ" or "Verizon") application for authorization to provide in-region, interLATA services in New Jersey[2].

I. INTRODUCTION

MetTel is a Competitive Local Exchange Carrier licensed in New Jersey and has been providing service to New Jersey consumers since July 2001. MetTel delivers its telecommunications service to customers predominantly over the unbundled network element ("UNE") combination known as the UNE Platform ("UNE-P"), MetTel provides telecommunications services in the states of New York, Pennsylvania, New Jersey, Massachusetts and Florida.

Throughout this proceeding, at the state and federal level, MetTel has presented evidence clearly demonstrating that Verizon's OSS and back end systems in New Jersey are deficient on several levels. These deficiencies create serious operational problems, impair successful penetration in the New Jersey market and compel carriers to expend significant resources identifying, tracking and resolving problems. Moreover, MetTel's

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1 *Public Notice*, Comments Requested on the Application by Verizon New Jersey, Inc. for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New Jersey, DA 02-718 (March 26, 2002) ("*Public Notice*").

2 MetTel incorporates by reference its Initial Comments, dated January 14, 2002, submitted in opposition to Verizon's 271 application under CC Docket No. 01-347

evidence clearly demonstrates that Verizon's self reported performance results are entirely inaccurate.

Rather than address and resolve the problems identified by MetTel, Verizon has participated in an aggressive *Ex Parte* campaign that is intended to conceal industry problems, misdirect and confuse the Commission, and malign MetTel. MetTel is now compelled to support its filings with additional exhibits that combat Verizon's anecdotal evidence and semantic gamesmanship. Accordingly, we provide herewith, clear and unequivocal evidence of the various OSS problems experienced by CLECs. Likewise, this evidence highlights Verizon's improper practices that have won them their prior 271 approvals.

II. PERFORMANCE OF VERIZON'S OSS

Section 271 requires ILECs to offer nondiscriminatory access to OSS functions. Specifically, Section 271(c)(2)(B)(ii) ("Checklist Item 2") of the 271 Competitive Checklist requires Verizon to provide "nondiscriminatory OSS access to network elements in accordance with the requirements of sections 251(c)(3) and 252((d)(1).[3]

Nondiscriminatory OSS access is the hallmark to a successful telecommunications company. CLECs do not have direct access to Verizon's back end systems. Instead, CLECs have to rely on an inferior system designed to simulate direct access via the exchange of notifiers. Accordingly, timely receipt of accurate notifiers is critical for success. States adopt "Performance Assurance Plans" ("PAP") to monitor and

[3] *See* Memorandum Opinion and Order, *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, 15 FCC Rcd 3953, ¶ 84 (rel. Dec. 22, 1999) ("*Bell Atlantic New York Order*").

encourage acceptable performance. Measures have been created within these plans that have become indicators for checklist requirements within the context of 271 proceedings.

Throughout this proceeding MetTel has presented ample evidence that clearly demonstrates that Verizon New Jersey's performance with respect to OSS functionality is seriously deficient. Verizon has failed to seriously address the system problems detailed and documented by MetTel. Instead, Verizon has attempted to characterize these problems as either MetTel specific or arising out of faulty analysis or record keeping on MetTel's part. Through a Supplemental Declaration[4] and *Ex Parte*[5] submissions, Verizon has increased its efforts to distance its 271 approval on the satisfactory performance of these metrics, while at the same time relentlessly denying its unreasonable performance.

Verizon's attempts to marginalize MetTel's claims as pertaining only to MetTel are a tremendous disservice to the industry as a whole. In fact, the OSS problems observed by MetTel do affect the entire CLEC community, whether each individual carrier has analyzed these problems or not. It is therefore imperative that these issues be addressed and definitively resolved before Verizon is permitted to gain access to the long-distance market.

A. Veracity of Completion Notifiers Transmitted by Verizon

Throughout this proceeding, MetTel has strived to call attention to the alarming fact that the completion notifiers (PCNs and BCNs) generated and transmitted by the Verizon systems do not in fact reflect the completion of the operation that they are

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4 See Supplemental Declaration of Kathleen McLean, Raymond Wierzbicki, Catherine T. Webster, and Julie Canny ("VZ Supplemental Declaration").

5 See Verizon *Ex Parte* dated April 5, 2002 ("VZ *Ex Parte*, April 5, 2002") and Verizon *Ex Parte* dated April 15, 2002 ("VZ *Ex Parte*, April 15, 2002").

supposed to represent. The importance of the accuracy of completion notifiers cannot be overstated. It is obvious that a timely notifier that misrepresents the real status of an order is, in many respects, worse than receiving a late notifier or no notifier.

In short, a false notifier becomes an operational nightmare. As stated in the past, notifiers are utilized to update databases and trigger numerous other systems including key systems such as billing. Accordingly, when a false notifier permeates an organization, the status of the affected customer is now misrepresented and for a myriad of reasons the CLEC cannot cope with customer or company issues. Even the slightest volume of inaccurate information will corrupt and exhaust an organization. The expense associated with false data is far greater than one can imagine and comes in many forms. The severest comes in the form of customer attrition and degradation of good will. False data that is service-affecting will inevitably compel an unsatisfied customer to seek the services of a different carrier. Simultaneously, that customer will proactively market against your organization to friends, family and contacts.

In all scenarios, false data results in increased costs. A CLEC will have to exhaust additional resources to isolate and correct the underlying service request. While the cost of the original order may have been reasonable, the additional costs to correct the order render it commercially unreasonable. Dependent upon the exact amount of the "additional cost" an account may be rendered permanently unprofitable. Increased costs may also come in the form of never to be collected revenues. In the aggregate, false notifiers are a cost that cannot be tolerated or absorbed by any organization.

MetTel has devised three methods to capture and demonstrate the existence of false notifiers: (1) absence of usage after migration; (2) the existence of usage after a

suspension but before a restoral or disconnection; and (3) the misdirection of long distance calls to a carrier other than the pre-subscribed carrier. Verizon has vigorously attacked all three methods. In all three instances we present herein irrefutable evidence of the existence of false notifiers.

1. Usage After Suspension and Disconnect

MetTel analyzes suspended lines for local usage. On April 8, 2002, MetTel presented to the Commission clear examples of usage after suspension but before restoral or disconnect[6]. At a meeting before Commission staff on April 12, 2002, Verizon denied the existence of this problem. At that time they presented anecdotal evidence on 23 of the orders listed in MetTel's attachment[7]. On April 15, 2002, Verizon filed an *Ex Parte*, which addressed 88 orders that were included on the orders in MetTel's attachment. In pertinent part, Verizon brazenly stated, "[it's] research indicated that in every case, the date of the restoral was before the 'first usage' date provided by MetTel."[8] Verizon went on to explain, "MetTel appears to be using the BCN receipt date as the date that usage should begin accruing instead of the work completion date indicated in the PCN."[9] In support of their position, Verizon included in its *Ex Parte* Attachment 1 which summarized the efforts of their alleged research[10].

In light of Verizon's *Ex Parte*, MetTel revisited its data and to no surprise discovered that Verizon was in fact patently incorrect about its findings. MetTel chose

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6 Declaration of Elliot M. Goldberg dated April 8, 2002, Attachments 7 and 8 ("Goldberg Declaration").

7 VZ *Ex Parte*, April 15, 2002 at 7.

8 *Id.*

9 *Id.*

10 For convenience, that attachment has been included as an Exhibit to the Reply Declaration of Elliot M. Goldberg, dated April 19, 2002, at Exhibit G ("Goldberg Reply Declaration").

five random PONs and pulled the Suspension PCN and BCN, as well as the restoral PCN and BCN, where it existed.[11] Copies of the PCNs and BCNs are included in the accompanying Reply Declaration of Eliot M. Goldberg.[12] Example PONs ***, ***, ***, *** and *** are all similar. They are all suspension orders that had subsequent restoral orders. We have identified each suspension PCN and its corresponding completion date and we likewise have marked each restoral PCN and its corresponding completion date. When they are compared to Verizon's spreadsheet[13], it is self evident that the call record date falls after the suspension completion date but before the restoral completion date. If Verizon had in fact researched these orders, they could not have concluded otherwise.

Verizon also claimed "three lines were complex Centrex lines where MetTel apparently had attempted to suspend the lines by using a blocking scenario that is not designed for service suspension." Verizon is correct in that the orders submitted for these lines were for the addition of Block L and the removal of Block L, and were not suspension and restoral orders typically used for the suspension and restoral of POTS lines. In fact, if Verizon reviewed its business rules it would have discovered that a Block L on a Centrex line prevents the transmission of both inbound and outbound calls on a Centrex line, with the exception of an intercom call[14]. Accordingly, simply because the order was not a "suspension" order, does not mean that it was acceptable to see usage after the PCN completion date for the addition of Block L. In fact, this only lends itself

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11 Although the PCNs alone would suffice for this analysis, MetTel wants the record to reflect that they are aware of the difference between a PCN and BCN as may have otherwise been suggested by the exhaustive researchers at Verizon. See *Ex Parte*, April 15, 2002, at 7.

12 Goldberg Reply Declaration Exhibit E; see also Exhibits D and F for additional examples. PCN Completion Dates can be identified by field DTM198 and BCN Completion Dates can be identified by field DTM434.

13 *Id*. Exhibit G.

to MetTel's position that false notifiers are prevalent on all types of orders—it is just easier to identify and aggregate these false notifiers when examined from a usage perspective. Verizon cannot deny that the presence of usage is problematic on this order.[15]

Unbelievably, Verizon stated "[a]nother 11 lines were involved in win-backs by Verizon. Because a suspended line cannot be migrated, Verizon restored the lines in preparation for migrating them back to Verizon. These restorals are *generally* due on the same day or one day prior to the win-back disconnect order for the CLEC."[16] In this scenario Verizon admits that usage exists prior to the effective date of the disconnect order although they suggest that the usage is occurring on the day or a day before the effective date of the disconnect order.[17] MetTel again examined the post suspension/pre-disconnect usage and as suspected the usage on these accounts precedes the effective disconnect date in the Loss of Line ("LOL") report by as much as 38 days[18]. In other words, the suspension completion date was February 21st. The first call record received was February 22nd. The LOL effective date for this customer was April 11, 2002. Thus, Verizon's alleged research has again proven to be deficient.

Finally, Verizon took issue with the fact that MetTel had listed 23 orders in its Attachment 7 as never having issued restoral orders, but that MetTel's attachment number 8 showed associated restoral orders for some of these lines. VZ Exparte, April

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14 *Id*. Exhibit I.

15 In an effort to avoid another exchange on this particular false notifier, we are advising Verizon that we have already confirmed that the usage received included calls other than intercom calls.

16 VZ *Ex Parte*, April 15, 2002, at 7.

17 Whether or not Verizon can avoid this scenario is something that should be considered, albeit, in a different proceeding or forum.

18 See Goldberg Reply Declaration, Exhibits A and C, Suspension PON ***.

15, 2002, at 7. This agreement is a clever diversion by Verizon . By attempting to create an inconsistency between two MetTel attachments, Verizon assumes that everyone will ignore the fact that Verizon failed to deal with the problem on a substantive basis. In all four examples, there still remains usage after the suspension completion date but before the restoral completion date.

Verizon has failed miserably in refuting MetTel's position. In fact, Verizon has in the process demonstrated it's total disregard for the information provided by MetTel, as well as their willingness to mislead while leaving consequences to chance.

2. Missing or Misdirected Long-Distance Usage

MetTel has also used Primary Interexchange Carrier ("PIC") change orders to demonstrate its case of false notifiers. In this category, MetTel captures and analyzes the Category 11 call records[19] after a PCN completion date on an order that changes a customer's PIC. MetTel examines the call to determine whether the call is being properly routed to the correct pre-subscribed carrier.

MetTel has repeatedly provided evidence demonstrating Verizon's failure to properly route long distance calls. In this category, Verizon has purposefully avoided an analysis of the calls provided by MetTel. Instead of responding to the data provided by MetTel, Verizon has chosen the defense of confusion. In the past, Verizon has (1) analyzed the wrong set of data; i.e. missing usage; and (2) or spent time analyzing the set of customers that did not have a problem[20].

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19 For the record, the method MetTel uses to select these discrepancies has been reviewed by Verizon staff and it specifically excludes all the categories that should be excluded (i.e. casual dialing, toll free numbers, numbers where NXX+4 does not equal 0, where the NXX is not 950 and includes only dialing method 1 where Orig Term =1 and where the record type =110101). Goldberg Reply Declaration at par. 8.E.

20 See VZ Supplemental Declaration at par. 34.

In their recent *Ex Parte*, they claimed ignorance, and again, created their own analysis while avoiding MetTel's data. Verizon concluded their investigation with a self-serving statement:

> Verizon's (sic) reiterated the methodology and results of the investigation into this area of concern that it performed in November 2001 looking at October migrations and again in February 2002 analyzing January migrations from Verizon retail to MetTel. The February analysis showed that of these January migrations, 12.4% did not request MetTel's usual pre-subscribed carrier. In addition, 76.8% of Category 11 records associated with the migrated telephone numbers properly carried a CIC code other than the pre-subscribed carrier designated by MetTel. See February 25 *Ex Parte*, P II.C; McLean/Wierzbicki/ Webster/Canny Supp. Decl. Pp 33-34. These included toll-free calls, casually dialed calls and terminating usage. MetTel indicated that they had incorporated these conditions into their quality assurance processing logic. However, Verizon's investigation demonstrated no systemic issue.[21]

The foregoing response means absolutely nothing. MetTel has provided Verizon with the actual order numbers and call records that are problematic. Verizon's continued refusal to address the PONs that were provided can mean only one thing: Verizon knows that there is a problem and must avoid addressing MetTel's orders at all cost. They say that there is not a systemic problem but their actions and devices clearly indicate otherwise. Simply having a dismissive tone cannot be the new standard for 271 approval.

MetTel has provided additional support for its position[22]. This exhibit includes 7 PONs and demonstrates the magnitude of the problem. Also attached are the LSRs

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21 VZ *Ex Parte*, April 15, 2002, at 7-8.

22 Goldberg Reply Declaration, Exhibits J and K.

reflecting the desired CIC[23],PCNs so that completion dates may be compared with call record dates[24] and the BCNs reflecting CIC that Verizon is alleging it provisioned[25].

3. Missing or Delayed Local Usage

MetTel also detects false notifiers through the absence of usage or delayed usage on an account after a migration. Verizon also refutes these problems. In an effort to attack MetTel's false notifier evidence in general, Verizon has focused its attack in this category.

In its recent *Ex Parte*, Verizon alleges that it has "investigated nearly *** billing telephone numbers for which MetTel submitted trouble tickets claiming that usage was due, but no usage had been received."[26] Verizon also alleges that in 75 percent of the cases, Verizon either found usage or MetTel agreed that no usage was due. Verizon also focused its efforts on *** cases that turned out to be, according to Verizon, payphone lines in either a dysfunctional state or in a state of seasonal suspend.

Verizon again attempts to paint a false picture by presenting evidence based on trouble tickets reported by MetTel, at Verizon's request, rather than the analyses provided by MetTel. The analyses provided by MetTel are created at a later time and do not include all accounts that may have had a trouble ticket. For example, MetTel rather than Verizon, in fact closes a majority of trouble tickets that are opened, once usage is received. The fact that Verizon finds usage when it finally gets around to looking at the

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23 *Id*., Exhibit L

24 *Id*., Exhibit M

25 *Id*., Exhibit N

26 VZ *Ex Parte*, April 15, 2002, at 6.

trouble ticket is not uncommon. Verizon admits as much: "As part of its investigation, Verizon did not determine when usage first occurred on the telephone number in question; merely that usage existed and had been sent to MetTel on the Daily Usage File ("DUF")."[27] Significantly, MetTel's data demonstrates that there is a material discrepancy between the PCN completion date of a migration order and the accounts actual migration date based on lagging usage.

Moreover, in many instances the first usage recorded on an account that has not shown usage for more than three days comes at a significantly later time than the completion PCN date.[28] One theory is that Verizon actually corrects the account in response to an open trouble ticket but is unable to direct earlier usage as it has already forwarded the usage from its billing systems.

Unlike the systemic problems demonstrated above by the existence of a call records where one should not have existed or an incorrectly routed call, here we attempt to prove a systemic problem with the absence of call records which is more susceptible to Verizon's gamesmanship. At the recent *Ex Parte* discussion, however, Verizon admitted that a valid demonstration of OSS failures in this context would be the existence of usage on lines lost per the LOL report past the effective date provided by Verizon.[29] This of course would mean that the winning carrier is not receiving the usage that is should be. MetTel is including a list of *** lines where usage was received and charged to MetTel after the LOL effective date[30]. This post disconnect usage has a date range from 1 day up

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27 VZ *Ex Parte*, April 15, 2002, at 6 n.3.

28 See Goldberg Reply Declaration, Exhibit S.

29 MetTel *Ex Parte*, April 15, 2002.

30 Goldberg Reply Declaration, Exhibits O and P.

to 54 days. Accordingly, the completion date for these disconnects could not possibly be accurate.

Finally, Verizon admitted that in the past it would force notifiers prior to the actual billing system work taking place[31]. This statement was made in contravention of every prior statement ever made by Verizon regarding BCNs. The fact that Verizon could "force" a notifier to be sent before the work is completed is a clear indication of a systemic problem not to mention the potential for one. The practice of "forcing" BCNs to be sent prematurely in the context of PAP and PAP penalties calls into question their performance everywhere and gives further credence to the problems highlighted herein. As noted above, notifier accuracy is critical to the successful operation of a CLEC. The foregoing demonstrates that there are significant problems with Verizon's OSS. Verizon either knows or should know about these problems but instead continues to attack MetTel and other CLECs. It is this very conduct that has crippled the CLEC community.

B. Verizon Fails on OSS Performance

Verizon fails to meet a 95% performance level on at least two key measures: (1) Confirmations or Rejects;[32] and (2) Completion Notifiers.[33] Regarding Confirmation and Reject performance, Verizon claims that it achieved a 98% and 99% performance level for November 2001 and December 2001 respectively. MetTel determined that their performance ranged from 77.65% to 93.31%, none of which satisfied the minimum level

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31 MetTel *Ex Parte*, April 15, 2002.

32 UNE confirmation and reject measures OR-1-02-3140, OR-1-04-3140, OR-1-06-3140 and OR-2-02-3140, OR-2-04-3140, OR-2-06-3140, respectively. Resale confirmation and reject measures OR-1-02-2320, OR-1-04-2320, OR-1-06-2320 and OR-2-02-2320, OR-2-04-2320, OR-2-06-2320, respectively.

33 PCN measures OR 4-05 and OR 4-10 and BCN measures OR 4-02 and OR 4-09, reported separately for Resale and UNE.

of 95%.[34] While Verizon has agreed that the encryption date/time stamp could be used by MetTel to calculate performance, they alleged that MetTel did not appropriately take into account exclusions.[35] Contrary to Verizon's claim, MetTel's calculations for November, December and January take into account all the exclusions raised by Verizon. For example, PON *** which Verizon addressed in its Ex Parte.[36] MetTel revisited this particular PON and MetTel had marked it as "having met the metric" with an elapsed time of two hours and thirty one minutes.[37]

Regarding PCN and BCN notifier measures, Verizon claims a performance level of 99%-100% for PCNs and 91%-98% for BCNs. While MetTel's measures Verizon's performance between 72.41% and 79.63% for BCNs, it is significant to highlight that Verizon itself has admitted failure. Verizon's response to its own poor performance in this category is that its "aggregate" performance "has been very good over the last several months."[38] Also significant is that Verizon attributes its failure to it's own system construct claiming that its billing cycles are affecting performance.[39] Verizon goes on to suggest that a recent change in the sequencing of orders may improve the timeliness of generating BCNs.[40] As noted above, to date CLECs have had to rely upon an inferior substitute to obtain access to network elements. This Commission, however, should not further compromise the position of CLECs by approving Verizon's 271 application

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34 Goldberg Reply Declaration dated April 8, 2002, at paragraph 6.

35 VZ *Ex Parte*, April 15, 2002, at 3.

36 *Id*. at 3.

37 Goldberg Reply Declaration, par. 18

38 *Id*. at 4.

39 *Id*.

40 *Id*.

where Verizon has admitted to sub par performance. At the very least, Verizon should be required to meet the minimum level of performance on these critical measures. Moreover, it is now possible that Verizon is experiencing difficulties in meeting this measure since it claims to no longer be forcing BCNs.

In an ad hoc manner, Verizon attempts to deal with the discrepancy between its own reports and MetTel's calculations. In one such instance, Verizon disclosed that it had excluded *** PONs in its calculations. In pertinent part Verizon stated:

> During the meeting, it was apparent in a number of cases that MetTel calculated performance measures differently than Verizon did. With respect to measure OR-4-09, MetTel included approximately 3500 PON's associated with a "project" to migrate coin telephones from another LEC to MetTel. As Verizon explained in the McLean/ Wierzbicki/Webster /Canny Supplemental Declaration (par.18, n. 3) Verizon excluded these PONs from certain recalculated OR-4 performance measures. Nevertheless, Verizon also provided data with these PONs included. (See id. par 21, n.4; Attachment 5.[41]

Verizon improperly excluded approximately *** PONs from its calculation of measure OR-4-09. Verizon is incorrect in asserting that it has the right to exclude these PONs from the calculation measure because they were provisioned within the context of a "project." Verizon is correct in that the PONs were in fact submitted in the context of a project, but project agreements permit Verizon to exclude orders from LSRC/Reject measures and not from PCN and BCN measures. This is unequivocal, as MetTel was required to enter into a project agreement with Verizon in order to submit this large quantity of orders[42]. A copy of that agreement is attached hereto as Exhibit ____.

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41 *Id*. at 5, n. 1.

42 Goldberg Reply Declaration, Exhibit B

Significantly, when the project PONs are included, Verizon itself reports an abysmal 89.37% for OR-4-09[43]. Accordingly, Verizon has excluded these PONs and restarted this measure at 91.95%. While the basis for Verizon's gaming are clear, it's right to recast and its logic is flawed. While a project exception may be appropriate for LSRC/Reject (it is not exactly clear why it is required), once the order is placed there is no basis to exclude the PONs from provisioning measures. Any argument to the contrary by Verizon would be an admission that it does not have the systems and support in place for a competitive market. More importantly, the disparity between Verizon's calculations of OR-4-09 with and without the project PONs clearly and unequivocally demonstrate that Verizon's OSS is not open for competition if one small CLEC can impact these critical measures. Verizon's effort to game the measure by excluding these PONs is typical of their commitment to the wholesale community. Any alleged daily or weekly conferences[44] are probably devoted to this type of gamesmanship rather than real operational solutions.

Incredulously, Verizon chose to use the *** PONs when it calculated its performance under OR-4-05. These tactics make it perfectly clear how Verizon meets its metrics—it simply includes enough favorable PONs and excludes problematic PONs.

The discrepancy between Verizon's performance reports and MetTel's calculations of Verizon's actual performance are significant. While MetTel has been stating its calculations since the fall of 2001, Verizon's performance has not improved. This discrepancy would have been addressed in a non-speculative manner if Verizon had provided MetTel with its flat files months ago. Notwithstanding months of contention on

[43] MetTel calculated Verizon's actual performance at 79.6%.

these measures, Verizon recently took the position that MetTel did not formally request the New Jersey flat files.[45] Verizon has committed to providing MetTel with the New Jersey flat files by April 25, 2002. At that time, MetTel will recast and submit its calculations based on Verizon's data. MetTel presently processes Verizon's file in New York and Pennsylvania where Verizon's performance reports are similarly misleading and incorrect. Accordingly, MetTel expects that the flat files will only eliminate any doubt that may exist.

C. Timely and Accurate Resolution of Trouble Tickets

MetTel has consistently complained of Verizon's failure to respond to missing notifier trouble tickets. MetTel follows the Consent Decree in analyzing Verizon's performance[46]. Verizon claims that it "consistently clears trouble tickets within 3 business days, in accordance with the same Consent Decree"[47].

The Definition of the metric provides: "The ticket is considered cleared when Bell Atlantic has either requested the CLEC to resubmit the PON or communicated the current status of the PON and provided the delayed status notifier to the CLEC." Contrary to the measure, Verizon believes that it satisfies this measure if it provides "the status of each order, and if the requested notifier or later notifier has been generated, resends the notifier to the CLEC. When the status has been provided and the notifier, if it exists, has been resent, the ticket is considered cleared."[48].

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44 *See Id.* at 2.

45 *Id*. at 9.

46 The March 9, 200 Consent Decree contains a metric titled "% Missing Notifier Trouble Ticket PONs Cleared within 3 Business Days"

47 VZ Supplemental Declaration at par 36.

48 *Id.* at par. 38.

Significantly, Verizon recognizes that it should be sending the delayed notifier within the three business day if it exists. Verizon, however, predominantly sends not the delayed notifier that MetTel is seeking, but the notifier that MetTel already has in its possession which creates the impetus to open the trouble ticket as more than sufficient time has passed to have received the delayed notifier.

MetTel receives 95% of the actual delayed notifiers within 26 days of the creation of the trouble ticket. Once the notifier is received, MetTel analyzes the completion date with the delayed notifier. In 98.84% of the orders, the completion date in the notifier preceded the date that the trouble ticket was opened. Thus, even according to Verizon's interpretation, it should have been able to provide the notifier within three business days of the trouble ticket.

Verizon further explained its position:

> If the status notifier that the CLEC is seeking has not been produced because the order has not reached the stage in the business process that would produce that notifier, Verizon determines if corrective action is required, either by Verizon or the CLEC, to move the order further in business process and subsequently produce the requested notifier. When Verizon is the party that must take the corrective action and Verizon has done so, the order is resolved. Similarly, if the CLEC must take the corrective action (for example, correcting an error on a order which Verizon queried) and Verizon has communicated that to the CLEC, the order is resolved. [49]

In the case of MetTel, it is seldom if ever that MetTel has to take corrective action. Accordingly, it becomes unexplainable that Verizon does not forward the delayed notifier during the three-business-day period, but when the notifier is

[49] *Id*. at par. 39.

received it alleges that the work was completed prior to the existence of the trouble ticket. Although unexplainable, it appears to be consistent with many of the false notifier problems. On the other hand, if the notifier does not exist although the completion date within the missing notifier states that it should exist, it is yet another indication of systemic problems.

This measure recognized the importance of timely receipt of notifiers. Verizon has ignored it and made a mockery of it at the expense of CLECs that rely on notifiers to improve upon service.

III. ADDITIONAL DISCRIMINATORY TREATMENT

Finally, the discriminatory treatment of Verizon's OSS is also demonstrated on an ordering basis. If CLECs had real nondiscriminatory access to network elements, CLECs would be able to provision and order at any time of the day any day of the week. This ability would permit CLECs to provide a superior level of customer care and thereby compete without the restrictions imposed by Verizon. However, CLECs are not only restricted from creating their own levels of customer care, but do not even have the same leeway as Verizon does. One clear example is Verizon's ability to submit an order on a Saturday and to be provisioned on a Saturday. Although a CLEC can submit an order on a Saturday, it has to due date the order for the next business day. This issue has been brought to Verizon's attention and has been ignored. While MetTel is convinced that there are several competitive reasons for Verizon to ignore this request, Verizon's primary concern has been that it would affect their performance under various Performance Assurance Plans.

While Verizon acknowledges that their wholesale centers are open on Saturdays, and perform work on Saturdays, they are not prepared to take on the obligation to perform work. This argument flies in the face of many positions that they have taken. Most obviously, it undermines their position that a majority of orders are "flow through" and do not require human intervention. If that were the case, the "performance risk" associated with permitting CLECs to due date orders for any day of the week would be de minimis. In addition, it undermines their position that they treat provide CLECs with nondiscriminatory access. These are significant competitive advantages that Verizon controls and maintains. So long as this disparity exists, this should serve as an additional basis for the Commission to deny Verizon's 271 obligation.

IV. CONCLUSION

The basis for denying Verizon's 271 application are numerous. All are critically important to the CLEC community if this community is going to succeed. In the aggregate, the operational problems and shortfalls have been the basis of failure. CLECs are eroded over time reconciling problems. Their attention is misdirected from operating their organizations to managing Verizon. The problems are numerous are many are not readily identifiable. CLECs and competition is thwarted by a multitude of nicks while Verizon represents exemplary performance.

In addition to the serious system problems that clearly exist, this proceeding has highlighted another serious impediment to the development of robust competition: namely Verizon's scornful attitude towards CLEC identified problems and its utter non-responsiveness to serious CLEC affecting system deficiencies. Consequently, CLECs are forces to expend an inordinate amount of time and resources simply battling Verizon's

non-responsiveness. Rather than make honest attempts to address the concerns of competing carriers, Verizon prefers to offer glib quasi-explanations to serious problems.

Against this background, it cannot be said that Verizon has satisfied its 271 checklist requirement and we respectfully urge the Commission to deny Verizon's application.

Respectfully Submitted,

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Dated: April 19, 2002